IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Crl.Rev.Pet.No. 1684 of 2002()

CRA.126/2000 of ADDL. SESSIONS COURT (ADHOC), THRISSUR
SC.135/1998 of ADDL. ASSISTANT SESSIONS COURT, IRINJALAKUDA

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REVN. PETITIONER: APPELLANTS 1 TO 4/ACCUSED NOS.1 TO 4:
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1. **MUHAMMED, AGED 55 YEARS,**
   S/O. KATTAKATH CHOOLAKADAVIL SAIDUMUHAMMED,
   SANTHIPURAM DESOM, SREENARAYANAPURAM VILLAGE,
   KODUNGALLUR TALUK, THRISSUR DISTRICT.

2. **JOSHY @ CHANDRASEKHARAN, AGED 38 YEARS,**
   S/O. PUNNAKKAL KUMARAN, PAPPINIVATTAM VILLAGE,
   KODUNGALLUR TALUK, THRISSUR DISTRICT.

3. **ABEEDALI, AGED 40 YEARS,**
   S/O. KANAKATHU PARAMBIL KUNJU MOIDEEN, PANANGAD,
   SREENARAYANAPURAM VILLAGE, KODUNGALLUR TALUK,
   THRISSUR DISTRICT.

4. **SIDDAN @ SIDHARTHAN, AGED 30 YEARS,**
   S/O.AKAPARAMBIL SANKARAN,SREENARAYANAPURAM VILLAGE
   KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.P.M.RAFIQ

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05 /11 /2007 , ALONG WITH CRRP NO. 1667 OF 2002 AND CONNECTED CASES THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRRP. NO.1684/2002

ORDER ON CRL. CMP . NO.9037/2002 IN CRRP. NO.1684/2002

DISMISSED

05.11.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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K.R.UDAYABHANU, J

Crl.R.P.Nos.1684/2002,
1667/2002, 1787/2002
&
Crl.R.P.No.2274/2003

Dated this the 5th day of November, 2007

O R D E R

The revision petitioners in Crl.R.P.No.1684/2002 are accused Nos.1 to 4 and revision petitioners in Crl.R.P.No. 1667/2002 are accused Nos.5, 7, 8 and 10 and revision petitioners in Crl.R.P.No.1787/2002 are accused Nos. 9 and 11 and revision petitioner in Crl.R.P.No.2274/2003 is A12 in S.C.No.135/98 in the file of Additional Assistant Sessions Judge, Irinjalakuda who stands convicted for the offences under Sections 148 and 326 read with Section 149 IPC and sentenced as follows:

A1 to A5, A7 to A12 are sentenced to undergo R.I. for a term of three years and to pay a fine of Rs.10,000/- each for the offence under Section 326 read with Section 149 IPC and sentenced to undergo R.I. for 9 months for the offence under Section 148 IPC; with the default clause to undergo simple

imprisonment for a term of one year and the sentences to run concurrently.

2. Case against 15 accused were charge sheeted. It is seen that the case against A6 is not committed. Accused Nos. 13, 14 and 15 were acquitted by the trial court. The allegation is that on 22.5.1995 at about 4.30 p.m. PWs' 1 and 2 were proceeding in a motor cycle through Kodungallur-Guruvayoor NH-17 and when they reached in front of Anchamparathi Toddy shop they were attacked by the accused with deadly weapons like iron rods and swords causing grievous injuries and that they were attacked in pursuance of the common object of unlawful assembly.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 14, Exts. P1 to P12 and MOs' 1 to 5. The defence examined DWs' 1 and 2 got marked Exts. D1 to D4(a). It is seen from the allegation that the incident is the result of political enmity between the assailants and victims who belonged to different political parties.

4. Counsel for the revision petitioners have only pleaded

for modification of the sentence. It is submitted that about 12 years have elapsed since the commencement of the proceedings and so far they were facing the prosecution and further proceedings. It is submitted that A7 is aged about 88 years and A1 is 63 years and that there is no personal animosity in between the victims and the accused and that the atmosphere is peaceful right now. In the circumstances and in view of the long lapse of time, I find that sentence that the accused/revision petitioners is to undergo imprisonment is not called for. PW1 has sustained fracture of the left fibular head and undisplaced fracture of left ulna. But, I find that PW2 has sustained rather very serious injuries.

5. In the circumstances, the conviction is confirmed and the sentenced imposed on A1 to A5, A8 and A12 who were found to have engaged in overt acts and convicted and sentenced for the offences under Sections 326 read with Section 149 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.30,000/- each to PW2 and in default, to undergo simple imprisonment for ten months each. A7, A9, A10

and A11 are also sentenced for the offence under Section 326 read with Section 149 IPC and sentenced to undergo imprisonment till the rising of the court and to pay a compensation of Rs.5,000/- each to PW1 and in default, to undergo simple imprisonment for six months each. No separate sentence is awarded for the offence under Section 148 IPC. Revision petitioners are granted two months' time to remit the amount of compensation. They shall appear before the Additional Assistant Sessions Judge, Irinjalakuda on 7.1.2008 to receive sentence.

The criminal revision petitions are disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl